

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA

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LORI ANN MORRIS *
*
VERSUS * No. 3:05-CV-962-T
*
EDWARD NEAL THOMPSON AND *
FLORIDA TRANSFORMER *
* * * * *

The deposition of ANDRE E. LeBLEU, P.E., 17474
Opportunity Avenue, Baton Rouge, Louisiana, 70814-
7470, taken by counsel for the Defendant at the
Office of Edward A. Robinson III, Esq., 600 North
Foster Drive, Baton Rouge, Louisiana, commencing at
10:36 a.m. on July 26, 2006.

CERTIFIED COPY

Reported by: Kelly G. Young, CCR

Registered Professional Reporter

EXHIBIT J

LEBLEU

<p>1 retained by anybody to testify?</p> <p>2 A. That's correct.</p> <p>3 Q. And who was it that first contacted you</p> <p>4 about testifying in this case?</p> <p>5 A. We received a call from Dr. Robinson, I</p> <p>6 believe.</p> <p>7 Q. All right. Let me ask you this. Through</p> <p>8 the course of -- how long have you been an engineer?</p> <p>9 A. Since 1987.</p> <p>10 Q. All right. Let me just kind of go through</p> <p>11 your resume here. You've been -- LAPTEC has been in</p> <p>12 existence since 1999?</p> <p>13 A. It probably started a few years before</p> <p>14 then.</p> <p>15 Q. Were you one of the founders of LAPTEC?</p> <p>16 A. I got in after it was founded.</p> <p>17 Q. Have you held the same position as</p> <p>18 vice-president the entire time you've been there?</p> <p>19 A. That's correct.</p> <p>20 Q. And in your dealings at LAPTEC, have you</p> <p>21 ever investigated any electrical systems for 18</p> <p>22 wheelers?</p> <p>23 A. No.</p> <p>24 Q. Have you ever done it in your experience</p> <p>25 ever?</p>	<p>22</p> <p>1 Q. And tell me, kind of break down what else</p> <p>2 you do. I don't know much about electrical</p> <p>3 engineering.</p> <p>4 A. Beyond that we do designs, which we</p> <p>5 implement in whatever facilities that we're</p> <p>6 contracted to do so. We develop a design which</p> <p>7 specifies every part and piece that goes with the</p> <p>8 electrical system. Not the major parts. We'll tell</p> <p>9 them the wire, how to install the wire, how to</p> <p>10 connect it, the equipment that's going to connect</p> <p>11 it, all the breakers, the protective devices in the</p> <p>12 breakers, down to the motors. We look at how it's</p> <p>13 going to be loaded, so forth. Do you need more</p> <p>14 detail?</p> <p>15 A. That's plenty right there.</p> <p>16 Q. What are you doing these designs for? Is</p> <p>17 it buildings; is it computers; is it cars?</p> <p>18 A. We basically provide power for buildings,</p> <p>19 industrial systems. That's pretty much it. We</p> <p>20 analyze systems, also, for various electrical</p> <p>21 properties to make sure they operate within safe</p> <p>22 applications.</p> <p>23 Q. Any of your design work, has that ever been</p> <p>24 done for 18 wheelers?</p> <p>25 A. No.</p>
<p>23</p> <p>1 A. No.</p> <p>2 Q. I'm not going to go -- what did you do at</p> <p>3 Power and Control Systems in Baton Rouge?</p> <p>4 A. Basically the same things I've done for</p> <p>5 LAPTEC.</p> <p>6 Q. Okay. And what about Bertrand Engineers?</p> <p>7 A. All of these except the beginning ones,</p> <p>8 FAA, was basically -- we were working more with</p> <p>9 radar systems instead of commercial industrial</p> <p>10 electrical systems.</p> <p>11 Q. Tell me generally what you concentrate on.</p> <p>12 Do you work on buildings?</p> <p>13 A. I work primarily on electrical systems,</p> <p>14 protection of electrical systems. We're considered</p> <p>15 to be experts on every aspect of electrical systems.</p> <p>16 Q. You said protection of electrical systems.</p> <p>17 Would that be like from power surges or lightning</p> <p>18 strikes?</p> <p>19 A. That would be that, that's correct.</p> <p>20 Q. What percentage do you think of your work</p> <p>21 is devoted towards protection of electrical systems?</p> <p>22 A. I would say 50 percent at least.</p> <p>23 Q. All right. So that's your primary focus.</p> <p>24 Is that correct?</p> <p>25 A. That's what we attempt to do.</p>	<p>25</p> <p>1 Q. What about any kind of vehicles or</p> <p>2 automotive equipment?</p> <p>3 A. No.</p> <p>4 Q. Anything other than buildings?</p> <p>5 A. It's basically going to be power systems</p> <p>6 that we've done for whatever, motors that supply</p> <p>7 power to motors or devices or something within a</p> <p>8 facility.</p> <p>9 Q. When you say motors, is that kind of like</p> <p>10 if you were in a plant --</p> <p>11 A. That's right.</p> <p>12 Q. -- and they've got a big old generator or</p> <p>13 something running, that's what you're talking about?</p> <p>14 A. Yes. I'm going to get electrical power to</p> <p>15 power motors or lights or any types of things that</p> <p>16 require electrical service.</p> <p>17 Q. You started with FAA, and then you moved</p> <p>18 back to Baton Rouge and have been here ever since</p> <p>19 doing that same kind of work?</p> <p>20 A. That's correct.</p> <p>21 Q. When were you born?</p> <p>22 A. Nineteen sixty-four.</p> <p>23 Q. And where did you go to college?</p> <p>24 A. I went to the University -- it's now</p> <p>25 University of Louisiana at Lafayette.</p>

<p>26</p> <p>1 Q. And what did you major in there?</p> <p>2 A. Electrical engineering.</p> <p>3 Q. Have you received any further education</p> <p>4 since then?</p> <p>5 A. We do have to take basically continuing</p> <p>6 education units every year, which is 15 hours a year</p> <p>7 basically, and I continue to do that.</p> <p>8 Q. Have you received any master's degree or</p> <p>9 anything like that?</p> <p>10 A. No.</p> <p>11 Q. I'm pretty sure I know the answer to this</p> <p>12 question, but I've got to ask just to make sure I</p> <p>13 cover all my bases. You haven't investigated any</p> <p>14 trucking accidents or you wouldn't have investigated</p> <p>15 any trucking accidents where an 18 wheeler rolled</p> <p>16 over. Is that correct?</p> <p>17 A. That's correct.</p> <p>18 Q. Who actually typed this affidavit?</p> <p>19 A. Dr. Robinson's office typed it.</p> <p>20 Q. And then sent it to you?</p> <p>21 A. That's right.</p> <p>22 Q. For your review?</p> <p>23 A. That's right.</p> <p>24 Q. Did you make any changes to it between the</p> <p>25 time that you first saw it and its final form?</p>	<p>28</p> <p>1 litigation fees.</p> <p>2 A. That would be the Class 1 forensic</p> <p>3 services.</p> <p>4 Q. That's what we're dealing with here?</p> <p>5 A. That's right.</p> <p>6 Q. Straight time hourly rates?</p> <p>7 A. We have a minimum four hour call out.</p> <p>8 Q. What's overtime?</p> <p>9 A. Anything unplanned or anything after eight</p> <p>10 hours.</p> <p>11 Q. All right. Anything over eight hours a</p> <p>12 day?</p> <p>13 A. That's right.</p> <p>14 Q. And then premium rates, what does that</p> <p>15 include?</p> <p>16 A. That means if you call me out at two or</p> <p>17 three in the morning and you want me to come out</p> <p>18 now.</p> <p>19 Q. I don't blame you. What about depositions?</p> <p>20 A. We're going to keep it on straight time.</p> <p>21 Q. What about trial testimony?</p> <p>22 A. What's that?</p> <p>23 Q. Trial testimony?</p> <p>24 A. Straight time.</p> <p>25 DR. ROBINSON:</p>
<p>27</p> <p>1 A. Yes, I have.</p> <p>2 Q. You have those in your file?</p> <p>3 A. Yes.</p> <p>4 Q. Could I see those, please?</p> <p>5 A. (Tendering document.)</p> <p>6 Q. This appears to be a fax dated March 30th,</p> <p>7 '05. Tell me, was this -- was this a fax that was</p> <p>8 prepared by Dr. Robinson, faxed to you that you</p> <p>9 reviewed, made changes to, sent back to him, and</p> <p>10 then what I've marked as Exhibit 2 was the final</p> <p>11 result after that?</p> <p>12 A. That's correct.</p> <p>13 MR. BRITTAIN:</p> <p>14 Can I get a copy of that, a separate</p> <p>15 copy of that?</p> <p>16 DR. ROBINSON:</p> <p>17 Okay. We were going to make copies of</p> <p>18 the whole book for you.</p> <p>19 MR. BRITTAIN:</p> <p>20 That right there I want to attach as</p> <p>21 an exhibit.</p> <p>22 (Off-the-record.)</p> <p>23 BY MR. BRITTAIN:</p> <p>24 Q. We'll mark what you provided me right here</p> <p>25 as Exhibit 3. This is your rate sheet for LAPTEC's</p>	<p>29</p> <p>1 Could I just indicate that there is</p> <p>2 preparation time that he had. He'd be</p> <p>3 happy to answer that.</p> <p>4 BY MR. BRITTAIN:</p> <p>5 Q. Have you kept up with the time you've got</p> <p>6 in this case?</p> <p>7 A. I can -- yes, I have to some extent.</p> <p>8 Q. Do you have that with you today?</p> <p>9 A. I do not.</p> <p>10 Q. What I'd ask you to do - how do you keep up</p> <p>11 with your time?</p> <p>12 A. I normally have a time sheet. Being this</p> <p>13 is the first time I've done this I've been less than</p> <p>14 stringent about keeping up with that. I've been</p> <p>15 actually pretty relaxed about it.</p> <p>16 Q. Can you get me a copy of that?</p> <p>17 A. Well, I kind of think that it would</p> <p>18 probably not be real observant of what I've done</p> <p>19 because, you know, I try not to -- at this point I</p> <p>20 didn't know what was going on so I was putting out</p> <p>21 no overhead. I was having to make up my other</p> <p>22 hours. I didn't know how this was going to go. So</p> <p>23 I said, well, I'm going to put just an hour or two</p> <p>24 here, and then I'm going to cover my lost time with</p> <p>25 other jobs. I think we can talk about it, and I can</p>

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<p>38</p> <p>1 I'm going to take that in -- I'm going to read this</p> <p>2 and say okay, and then I'm going to go look at the</p> <p>3 Kenworth data and take that, and I'm going to look</p> <p>4 at pictures and say does that make sense, and from</p> <p>5 there that's where I came up with this. To say that</p> <p>6 this influences exactly what I'm going to say I can</p> <p>7 say no.</p> <p>8 Q. That didn't have any influence on your</p> <p>9 opinion?</p> <p>10 A. It may have some influence on my opinion</p> <p>11 from the fact that I read this, but the final</p> <p>12 opinion, no.</p> <p>13 Q. Now, you've looked at the accident report.</p> <p>14 Have you ever picked up the phone and called either</p> <p>15 one of the state troopers?</p> <p>16 A. I did not.</p> <p>17 Q. Have you ever talked to anybody that was</p> <p>18 involved in this accident?</p> <p>19 A. I did not.</p> <p>20 Q. All right. You reviewed the photographs</p> <p>21 that the state troopers took. Is that right?</p> <p>22 A. That is correct.</p> <p>23 Q. Did you review the photographs that Dr.</p> <p>24 Robinson -- I'm going to call Dr. Robinson the</p> <p>25 expert -- I'm going to call him Dr. Robinson. I'm</p>	<p>40</p> <p>1 truck was no longer available to be looked at.</p> <p>2 Q. Do you know why the truck is no longer</p> <p>3 available to be looked at?</p> <p>4 A. I do not know.</p> <p>5 Q. Correct me if I'm wrong, and I'm not going</p> <p>6 to get in depth in your opinions right now, but one</p> <p>7 of the opinions that you're going to offer generally</p> <p>8 is the lights were on and they were visible and</p> <p>9 should have been visible to my client?</p> <p>10 A. More probable than not. Hold on. Let me</p> <p>11 say this. More probable than not that the lights</p> <p>12 were on. Were they visible to your client, I cannot</p> <p>13 say because I'm not an accident reconstructionist.</p> <p>14 Q. So as far -- you don't know where the trees</p> <p>15 are on the side of the interstate, do you?</p> <p>16 A. Where the what?</p> <p>17 Q. Whether there are any trees on the side of</p> <p>18 the interstate right here?</p> <p>19 A. From the pictures that I saw I didn't see</p> <p>20 any trees.</p> <p>21 Q. That's based on the pictures, right?</p> <p>22 A. That's correct.</p> <p>23 Q. So you have not taken any measurements as</p> <p>24 far as where the embankment is or anything like that</p> <p>25 at the accident scene. Is that correct?</p>
<p>39</p> <p>1 going to call you Attorney Robinson. All right?</p> <p>2 DR. ROBINSON:</p> <p>3 That's fine.</p> <p>4 A. Yes.</p> <p>5 BY MR. BRITAIN:</p> <p>6 Q. Did you review those photographs?</p> <p>7 A. I did.</p> <p>8 Q. Looks like you reviewed aerial photos of</p> <p>9 the accident scene?</p> <p>10 A. Yes.</p> <p>11 Q. And reviewed a forensic map created by Dr.</p> <p>12 Robinson?</p> <p>13 A. Yes.</p> <p>14 Q. There's a couple of forensic maps that have</p> <p>15 been created. Whichever one you looked at, is that</p> <p>16 going to be in your book?</p> <p>17 A. Yes.</p> <p>18 Q. You've not been to the accident scene. Is</p> <p>19 that correct?</p> <p>20 A. I have not.</p> <p>21 Q. Do you -- why haven't you gone out there?</p> <p>22 A. I've only been told to look at the</p> <p>23 electrical system and I asked -- I'm not sure who I</p> <p>24 asked, one of the Robinsons, if we could view the</p> <p>25 truck, and when I became involved apparently the</p>	<p>41</p> <p>1 A. No.</p> <p>2 Q. You're not aware of any kind of curvature</p> <p>3 there is of the road other than what you might have</p> <p>4 seen from photographs. Is that correct?</p> <p>5 A. From this data right here that's what I</p> <p>6 have.</p> <p>7 Q. You've not inspected the Kenworth that Mr.</p> <p>8 Morris was driving at the time of this accident.</p> <p>9 That's correct?</p> <p>10 A. That's correct.</p> <p>11 DR. ROBINSON:</p> <p>12 Other than the pictures?</p> <p>13 A. That's correct.</p> <p>14 BY MR. BRITAIN:</p> <p>15 Q. You went out and looked at a Kenworth a</p> <p>16 couple of days ago it sounds like or earlier this</p> <p>17 week or last week. Is that correct?</p> <p>18 A. Last couple of weeks.</p> <p>19 Q. And then you saw one other Kenworth</p> <p>20 sometime before you prepared this report. Is that</p> <p>21 correct?</p> <p>22 A. I wouldn't say just one. We've looked at a</p> <p>23 number of them, but in depth I looked at one.</p> <p>24 Q. And where was this done? Where was it done</p> <p>25 that you looked at it before you prepared the</p>

<p>46</p> <p>1 that went out there and investigated this accident. 2 We've taken the depositions of both Mr. Thompson who 3 was driving the Florida Transformer 18 wheeler and 4 the deposition of Mr. Tidwell who was a passenger in 5 there at the time. Have you reviewed any of those 6 depositions? 7 A. I've seen the depositions of the two 8 drivers of the Florida Transformer truck. 9 Q. And who provided those to you? 10 A. Dr. -- 11 MR. ROBINSON: 12 Mr. Penick. 13 BY MR. BRITTAIN: 14 Q. Mr. Penick? 15 A. Yes. 16 Q. He did not provide you with the deposition 17 of Sergeant Patterson? 18 A. No. 19 Q. And he did not provide you with the 20 deposition of Dr. Edward Robinson? 21 A. That's correct. 22 Q. Have you asked to be allowed to see those? 23 A. I didn't know about the one from the 24 sergeant, and Dr. Robinson, I felt like that was -- 25 I didn't ask because he was going to be talking</p>	<p>48</p> <p>1 A. Certainly it would be fine to look at that. 2 Do I think it would affect what I say? I can't say 3 that it would really affect it, but until I read it 4 I wouldn't know. 5 Q. Hard to say until you know what's in there, 6 right? 7 A. That's right. 8 Q. Maybe it would, maybe it wouldn't? 9 A. Right. 10 Q. You're here today, if I understand 11 correctly, to offer -- you tell me, what are you 12 going to offer opinions on? 13 A. I'm going to offer the opinion that more 14 probably than not that the electrical system was 15 operating and the lights were more probably than not 16 on. 17 Q. You're not here to offer any opinion as to 18 compliance with or violation of Federal Motor 19 Carrier Safety Regulations? 20 A. That's correct. 21 Q. And you're not qualified to render any 22 opinion on -- 23 A. That's correct. 24 Q. You're not going to offer any opinions on 25 cause of death. Is that correct?</p>
<p>47</p> <p>1 about things separate than the electrical. 2 Q. In your report here you said you've 3 reviewed things from Dr. Robinson? 4 A. That's right. 5 Q. All right. But you don't think it would be 6 good to see exactly what he had to say? 7 DR. ROBINSON: 8 We'll object to the form, Counsel, 9 because he's indicated that this report was 10 written prior to any deposition of Dr. 11 Robinson. The date of his report and his 12 affidavit is there for you to see. It was 13 back in March of 2005, and I think Dr. 14 Robinson's deposition was just only taken 15 within last few weeks here. Subject to 16 that. 17 BY MR. BRITTAIN: 18 Q. You can answer. He's got to put that on 19 the record. You've done work since you've done this 20 report, right? 21 A. That's right. 22 Q. Okay. Do you think it would be helpful for 23 you to review Dr. Robinson's deposition in order to 24 get a better understanding of what all is going on 25 here?</p>	<p>49</p> <p>1 A. That's correct. 2 Q. And, again, you're not qualified to render 3 any of those opinions? 4 A. That's correct. 5 Q. Are you familiar with any cases involving 6 rollovers? 7 A. No. 8 Q. This is your very first one? 9 A. That's correct. 10 Q. And you stated this earlier. I want to 11 make sure I understand. You're not here to offer 12 any opinions as it relates to any kind of accident 13 reconstruction? 14 A. That's correct. 15 Q. Again, you're not qualified to render those 16 opinions? 17 A. That's correct. 18 Q. Along with that, that encompasses a lot of 19 things, but you're not qualified to render any 20 opinions on the speed of the vehicles, either the 21 Kenworth when it rolled over or the Peterbilt as it 22 approached? 23 A. No. 24 Q. And you're not qualified to render any 25 opinions as to perception reaction time. Is that</p>

<p>50</p> <p>1 correct?</p> <p>2 A. That's correct.</p> <p>3 Q. All right. Back to your report or your</p> <p>4 affidavit. Is this the only thing -- you don't have</p> <p>5 a report, do you?</p> <p>6 A. I've got a very short report that I</p> <p>7 presented earlier.</p> <p>8 DR. ROBINSON:</p> <p>9 That was the project note.</p> <p>10 MR. BRITTAIN:</p> <p>11 I'm going to mark that as Exhibit 6.</p> <p>12 DR. ROBINSON:</p> <p>13 What was No. 5? Was that the</p> <p>14 affidavit?</p> <p>15 MR. BRITTAIN:</p> <p>16 Five is that fax.</p> <p>17 DR. ROBINSON:</p> <p>18 Okay.</p> <p>19 MR. BRITTAIN:</p> <p>20 Four is the book.</p> <p>21 DR. ROBINSON:</p> <p>22 And this is Exhibit No. 6 then, and</p> <p>23 this is the project note.</p> <p>24 MR. BRITTAIN:</p> <p>25 Right.</p>	<p>52</p> <p>1 by Dr. Robinson.</p> <p>2 Q. Let me see what you've got there.</p> <p>3 A. Some general brochures. One of them is for</p> <p>4 a W900 Kenworth, and one is for a T800 Kenworth. Is</p> <p>5 that right?</p> <p>6 A. That's correct.</p> <p>7 Q. These were provided to you by Dr. Robinson?</p> <p>8 A. That's correct.</p> <p>9 Q. Dr. Robinson or Attorney Robinson?</p> <p>10 DR. ROBINSON:</p> <p>11 Attorney Robinson.</p> <p>12 BY MR. BRITTAIN:</p> <p>13 Q. And then you have another one in your blue</p> <p>14 book right there. Is that right?</p> <p>15 A. That's correct.</p> <p>16 Q. And what is that for?</p> <p>17 A. Interiors and sleepers. I didn't really</p> <p>18 use that.</p> <p>19 Q. What did you say, this was a T600 involved</p> <p>20 in this accident?</p> <p>21 A. From what I understand it was a T600.</p> <p>22 Q. When did you get these two provided by</p> <p>23 Attorney Robinson?</p> <p>24 A. I got them when I got this right here.</p> <p>25 Q. Will you stick these in that book, too, and</p>
<p>51</p> <p>1 BY MR. BRITTAIN:</p> <p>2 Q. Other than the affidavit and the project</p> <p>3 note, are there any other reports, or affidavits, or</p> <p>4 anything else that you plan on using or that you</p> <p>5 developed?</p> <p>6 A. I plan on using the brochures that were --</p> <p>7 that I had.</p> <p>8 Q. I'm going to get to that in a second.</p> <p>9 Other than what you've generated. I'm just talking</p> <p>10 about what you've generated.</p> <p>11 A. No, that's it.</p> <p>12 DR. ROBINSON:</p> <p>13 Attorney Brittain, could I just ask</p> <p>14 you did you give an exhibit number to the</p> <p>15 affidavit yet? I didn't get that.</p> <p>16 MR. BRITTAIN:</p> <p>17 Number 2.</p> <p>18 BY MR. BRITTAIN:</p> <p>19 Q. Do you have a copy of -- you just mentioned</p> <p>20 some Kenworth materials?</p> <p>21 A. That's correct.</p> <p>22 Q. Do you have a copy of those?</p> <p>23 A. Yes, I do.</p> <p>24 Q. Is that in your book?</p> <p>25 A. I took them out. These were provided to me</p>	<p>53</p> <p>1 let's get a copy of those?</p> <p>2 A. (Complied with request.)</p> <p>3 Q. In your affidavit you state that your</p> <p>4 opinions and conclusions are based upon standard</p> <p>5 methodologies accepted and utilized throughout the</p> <p>6 electrical engineering profession. What standard</p> <p>7 methodologies are we talking about?</p> <p>8 A. We're going to talk about -- we're going to</p> <p>9 examine the way the wires are mounted in the truck.</p> <p>10 We're going to just go look at things about</p> <p>11 batteries. We're going to try to look at everything</p> <p>12 that's in there, that kind of thing.</p> <p>13 Q. Okay. Standard methodology, I know like</p> <p>14 for accountants they have the generally accepted</p> <p>15 accounting principles. Is there anything like that</p> <p>16 in the electrical engineering field?</p> <p>17 A. We have the National Electric Code. That's</p> <p>18 just something we just go through to make sure</p> <p>19 everything is done safely. Trucking industry is</p> <p>20 going to put that in. They're going to do that.</p> <p>21 They're going to meet all those qualifications.</p> <p>22 Being that I don't have the truck to look at, I'm</p> <p>23 going to go and make sure those things are met,</p> <p>24 which the trucking industry is going to meet, and</p> <p>25 then I'm going to use my own experience and go</p>

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<p>1 think after the Peterbilt hit it I've got to guess 2 that everything is -- all bases are off after the, 3 you know, after it got hit by the truck. 4 Q. What do you mean by that? 5 A. I don't know what affect that would have on 6 the switches. 7 Q. Do you know what affect that a rollover 8 would have on those switches? 9 A. I would tend to think at this point that 10 the switches were pretty sticky. 11 Q. Now, you think that an impact would have I 12 guess messed everything up so bad that you can't 13 really tell anything, but a rollover would not have 14 that affect? 15 A. I can't say that. 16 Q. I'm trying to understand what you just told 17 me though. 18 A. This is what I have to -- from what I 19 understand the impact tore the cab off the truck. 20 Q. How did you come to that understanding? 21 A. I got that off -- I read that someplace. 22 Q. Do you remember where you read that? 23 A. I must have read it off the Dr. Robinson 24 report. Then all bets are off on what state the 25 switches were or anything at that point.</p>	<p>62</p> <p>1 A. No. 2 Q. Would you agree with me that that would 3 tend to indicate that there was some pretty 4 significant force going on on this rollover 5 collision if that's the number one cause of 6 death -- 7 A. I don't know that -- 8 DR. ROBINSON: 9 Object. You're asking questions 10 outside of his expertise, Counsel. Calls 11 for speculation. 12 BY MR. BRITTAIN: 13 Q. Let me make sure I understand. You're 14 saying that the photograph of the dashboard control 15 panels, you're not as concerned with that any more 16 because the destruction that would have been caused 17 by the impact would have been so severe that it 18 wouldn't be helpful? 19 A. Yes. Nobody can say what the impact would 20 have done to the switches. 21 Q. And I guess the same could be said with 22 respect to the rollover, too. Is that right? 23 A. I don't know. 24 Q. Number 3 here says, Were the lights turned 25 off by anyone at the scene? Why is that important?</p>
<p>63</p> <p>1 Q. What's your understanding -- so I guess 2 based on the force of the impact between the 3 Peterbilt and the Kenworth, is that what you're 4 telling me? 5 A. From the cab being torn off the trailer 6 from what I understand. From what I understand. I 7 don't know exactly where I got that from right at 8 this point. I can't say what happened after that. 9 Q. But you've never investigated an 18 wheeler 10 that's rolled over before, have you? 11 A. That's correct. 12 Q. You don't know what kind of force is 13 involved in a rollover event, do you? 14 A. I do not know. 15 Q. Are you aware of the fact that many times 16 people are killed in a rollover when a truck rolls 17 over? Are you aware of that? 18 A. You're telling it to me. 19 Q. Did you know that that happens? 20 A. I can't say that I knew that or don't know 21 that. 22 Q. I'll represent to you that when we took 23 Trooper Patterson's deposition he said that is the 24 most common cause of fatalities in trucking wrecks 25 is rollovers. Were you aware of that?</p>	<p>65</p> <p>1 A. I just want to know. Clearly that would 2 indicate that the lights were on. 3 Q. Number 4, What was the position of the key 4 in the ignition at the scene. What does that mean? 5 A. We were just -- at that point we didn't 6 quite know everything involved so we wanted to know 7 was the truck running, was it not running? Now we 8 know that with the truck off it doesn't have any 9 affect on the lights. 10 Q. So No. 4 doesn't matter? 11 A. That's right. 12 Q. Number 5, What is the condition of the 13 lights on the truck and trailer now? Do the lights 14 appear to be intact and functional? Tell me why 15 that's important. 16 A. Obviously, that's going to affect if the 17 lights can be used or not after the impact or 18 whatever. This is our initial question trying to 19 find out what went on so we could formulate our 20 opinion. 21 Q. Is that still something that you think as 22 we sit here today is pretty important to know? 23 A. It would be nice to know. 24 Q. Number 6, What is the type and manufacture 25 of each battery? Tell me why you need to know that.</p>

<p style="text-align: right;">78</p> <p>1 copy of this back?</p> <p>2 DR. ROBINSON:</p> <p>3 Let us make a copy of it first, and</p> <p>4 then you can mark it.</p> <p>5 (Off-the-record.)</p> <p>6 BY MR. BRITTAIN:</p> <p>7 Q. I'm going to mark this as 11. I want you</p> <p>8 to take my pen and draw on here the wire that you</p> <p>9 were just talking about that was the most . . .</p> <p>10 A. (Complied with request.)</p> <p>11 Q. And what does that wire run from and to?</p> <p>12 A. I don't know.</p> <p>13 Q. Do you even know if it has anything to do</p> <p>14 with the lights?</p> <p>15 A. No, I don't know if it has anything to do</p> <p>16 with that. My contention is that on the rollover</p> <p>17 this right here is usually going to be one of the</p> <p>18 things that impacts the ground. And even after</p> <p>19 getting hit by the Peterbilt, this right here, which</p> <p>20 was probably one of the points rubbing on the</p> <p>21 ground, seems to me that it would have, by all of</p> <p>22 this damage right here that this is still in good</p> <p>23 shape.</p> <p>24 Q. What you're saying is that one way for the</p> <p>25 wiring to be destroyed or the lights would be if the</p>	<p style="text-align: right;">80</p> <p>1 the model T600 brochure?</p> <p>2 A. I did get a T600 brochure off the internet.</p> <p>3 Q. Does that have the schematics of the</p> <p>4 wiring?</p> <p>5 A. No. I think it's got the same pictures.</p> <p>6 DR. ROBINSON:</p> <p>7 The same schematic.</p> <p>8 MR. BRITTAIN:</p> <p>9 If you will, will you -- I'm going to</p> <p>10 need a copy of that, too.</p> <p>11 DR. ROBINSON:</p> <p>12 Could we do -- all of these or just</p> <p>13 the pertinent pages?</p> <p>14 MR. BRITTAIN:</p> <p>15 I do want the whole thing.</p> <p>16 DR. ROBINSON:</p> <p>17 Let me go and make the whole thing</p> <p>18 then.</p> <p>19 (Off-the-record.)</p> <p>20 BY MR. BRITTAIN:</p> <p>21 Q. The schematic that you're showing me there,</p> <p>22 that's the connection of the --</p> <p>23 A. This is the way they -- the wiring and all</p> <p>24 of their devices are contained within the C beam.</p> <p>25 Q. In the trailer?</p>
<p style="text-align: right;">79</p> <p>1 truck slid along its side and the contact between</p> <p>2 the wire and the pavement basically destroyed the</p> <p>3 connection?</p> <p>4 A. What I'm saying is if the wire, the wire is</p> <p>5 held securely in the truck and being -- it would</p> <p>6 stay there. Being this was at a point where it</p> <p>7 would be most apt from what I can see to be in</p> <p>8 contact with the ground, it was protected enough</p> <p>9 that any other wiring within the truck would</p> <p>10 probably not be damaged from this exhibit right</p> <p>11 here for lack of a better word.</p> <p>12 Q. There wasn't any wiring at all damaged in</p> <p>13 the truck is what you're saying?</p> <p>14 A. I don't know that.</p> <p>15 Q. The wiring that you and I just went over</p> <p>16 that's -- tell me what model we were looking at.</p> <p>17 A. We were talking about a T800.</p> <p>18 Q. That's not the tractor that was involved in</p> <p>19 this accident, is it?</p> <p>20 A. No, that's not it.</p> <p>21 Q. Do you know whether the tractor that was</p> <p>22 involved in this is wired the same way as that</p> <p>23 tractor?</p> <p>24 A. I don't know that. I assume so.</p> <p>25 Q. Is there any reason why you haven't gotten</p>	<p style="text-align: right;">81</p> <p>1 A. That's right.</p> <p>2 Q. What about in the tractor?</p> <p>3 A. The tractor, I know that it's got, from</p> <p>4 what I can remember from just looking, it's got all</p> <p>5 of the wiring contained within basically the metal</p> <p>6 parts within the trailer protected from the</p> <p>7 environment, things like that. It also has kind of</p> <p>8 a bungee cord type attachment with some locked hubs.</p> <p>9 Q. And that's based on you opening up the hood</p> <p>10 of some of these tractor trailers?</p> <p>11 A. Just looking at them.</p> <p>12 Q. Would that be I guess early on when you</p> <p>13 would look at the ones that would pull up where you</p> <p>14 all were, or is that from your inspection of the</p> <p>15 Kenworths at the Kenworth dealership?</p> <p>16 A. It would be early on.</p> <p>17 Q. And you don't know whether on the tractors</p> <p>18 you had been looking at there whether any changes</p> <p>19 had been made to that, do you, to those tractors?</p> <p>20 A. I can't say specifically about the tractor</p> <p>21 that Mr. Morris was driving.</p> <p>22 Q. You have no idea what the wiring was like</p> <p>23 in the tractor of Mr. Morris?</p> <p>24 A. No, that is correct.</p> <p>25 DR. ROBINSON:</p>

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<p style="text-align: right;">102</p> <p>1 inner side lights.</p> <p>2 Q. You're talking about these two things right</p> <p>3 here on the last page?</p> <p>4 A. Right.</p> <p>5 Q. So you say, based on the fact that the</p> <p>6 filaments were intact on these looks like overhead</p> <p>7 lights inside the cab, you think the filaments in</p> <p>8 the headlights, taillights and everything else would</p> <p>9 not have been damaged or would still remain intact?</p> <p>10 A. More probable than not.</p> <p>11 DR. ROBINSON:</p> <p>12 Note, too, that he pointed to a</p> <p>13 headlight there in answer to your question</p> <p>14 earlier.</p> <p>15 BY MR. BRITAIN:</p> <p>16 Q. Do you have any earthly idea on the</p> <p>17 difference in the amount of force that would have</p> <p>18 been applied to the interior lights versus the</p> <p>19 amount of force that will be applied to the exterior</p> <p>20 lights in the course of a rollover?</p> <p>21 A. No, I would -- I'm not going to go there.</p> <p>22 Q. And there is a certain amount of force --</p> <p>23 there's only a certain amount of force that a</p> <p>24 filament is going to withstand before it's going to</p> <p>25 break, right?</p>	<p style="text-align: right;">104</p> <p>1 filaments.</p> <p>2 A. We can't say that. I don't know that.</p> <p>3 Q. I know you don't, but assume that there was</p> <p>4 for purposes of this question. I get to ask you</p> <p>5 hypothetical questions.</p> <p>6 DR. ROBINSON:</p> <p>7 At what point in time? Are you</p> <p>8 talking about at the time of the --</p> <p>9 BY MR. BRITAIN:</p> <p>10 Q. Is there ever a point in time, is there a</p> <p>11 situation where the exterior force on the filaments</p> <p>12 on the exterior lights would be greater than the</p> <p>13 force on the interior -- interior light filament</p> <p>14 that that situation could happen?</p> <p>15 A. I can't say as a mechanical. I'm not a</p> <p>16 mechanical. If I hit a vehicle, or a structure or</p> <p>17 something like that I'm hitting it with a certain</p> <p>18 amount of force. So everything that I'm hitting is</p> <p>19 going to be exposed to that force whether it's</p> <p>20 contained inside or outside. I'm confused by the</p> <p>21 question. I don't know how to respond.</p> <p>22 If you said that I have two bulbs and I hit</p> <p>23 them with a different amount of force I could say,</p> <p>24 yes, the one that's hit with the more force the</p> <p>25 filaments probably would be, you know, assuming we</p>
<p style="text-align: right;">103</p> <p>1 A. Yes.</p> <p>2 Q. So if the force applied to the exterior</p> <p>3 lights was much greater than the force applied to</p> <p>4 the interior light, it's very likely that those</p> <p>5 lights would have gone out and the interior lights</p> <p>6 or at least the filaments would not be damaged. Is</p> <p>7 that fair to say?</p> <p>8 A. Please restate the question.</p> <p>9 Q. If the force that was exerted on the</p> <p>10 exterior light filaments was much greater than the</p> <p>11 force exerted on the interior light filaments, is it</p> <p>12 likely that the exterior light filaments would be</p> <p>13 damaged while the interior light filaments would</p> <p>14 remain intact?</p> <p>15 A. Well, I don't think that's a question that</p> <p>16 we can answer because we don't know the difference</p> <p>17 between the force. How can you say there's a</p> <p>18 difference in force?</p> <p>19 Q. Just assume for purposes of my question</p> <p>20 that there is.</p> <p>21 A. There could be a difference in how the</p> <p>22 filament would withstand it. Answering the question</p> <p>23 that you are asking.</p> <p>24 Q. Assuming that there was a difference in</p> <p>25 force on the interior filaments and the exterior</p>	<p style="text-align: right;">105</p> <p>1 damaged both of them, this one would be more</p> <p>2 damaged. If I hit this one with more force would</p> <p>3 there be a better chance the one hit with more force</p> <p>4 would break more than the other one with less? Yes.</p> <p>5 Q. The lights on this tractor trailer, they</p> <p>6 could go out for numerous different reasons. Isn't</p> <p>7 that right?</p> <p>8 A. That's correct.</p> <p>9 Q. One would be like if you went up to them</p> <p>10 with a baseball bat and busted them all out. That's</p> <p>11 one way, right?</p> <p>12 A. Right.</p> <p>13 Q. Or the damage that would be put on the</p> <p>14 actual light and the filament itself from either the</p> <p>15 rollover or the collision. Is that right?</p> <p>16 A. That's correct.</p> <p>17 Q. Another way would be if a wire was severed</p> <p>18 or cut and the electricity could no longer get to</p> <p>19 it. Is that correct?</p> <p>20 A. Absolutely.</p> <p>21 Q. And that could also happen either in a</p> <p>22 rollover or from impact. Is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. And another way I guess would be for the</p> <p>25 battery to malfunction?</p>

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<p>106</p> <p>1 A. That's right.</p> <p>2 Q. Are there any other ways that you could</p> <p>3 conceive of that the lights could go out?</p> <p>4 A. I think we've touched on them all.</p> <p>5 Q. What if the alternator goes out?</p> <p>6 A. Alternator -- admittedly I'm going to be</p> <p>7 weak on this one. The alternator is basically a</p> <p>8 means for the engine to convert electricity to DC to</p> <p>9 feed it into the system. I think if you still had</p> <p>10 the batteries then the lights would come on.</p> <p>11 Q. I've been driving down the road one time,</p> <p>12 my alternator went out and I was --</p> <p>13 A. You were dead.</p> <p>14 Q. Right.</p> <p>15 A. I can't accurately state on this truck what</p> <p>16 would happen. The alternator, from what I</p> <p>17 understand, is a means to convert to DC.</p> <p>18 Q. Do you know whether or not the alternator</p> <p>19 went out on this tractor trailer as he was riding</p> <p>20 down the road, and his lights went off, and he was</p> <p>21 stuck there with no lights at 2:30 in the morning?</p> <p>22 A. I don't know.</p> <p>23 Q. Is that a possibility?</p> <p>24 A. I don't know.</p> <p>25 Q. You can't say that didn't happen, can you?</p>	<p>108</p> <p>1 So you're aware that does happen, aren't you?</p> <p>2 A. Yes.</p> <p>3 Q. All right. Were you able to rule out any</p> <p>4 kind of design defect in this particular instance?</p> <p>5 A. When did this -- this accident happened</p> <p>6 like what time, what year?</p> <p>7 Q. This accident we're here about today?</p> <p>8 A. I think it happened in 2003.</p> <p>9 Q. Two thousand four.</p> <p>10 A. Two thousand four and he's got a '98.</p> <p>11 That's the only thing -- from what we understand he</p> <p>12 has I believe a '98 Kenworth. So if at that point</p> <p>13 he was having some electrical problems certainly he</p> <p>14 would have known about them or somebody would have</p> <p>15 known about them.</p> <p>16 Q. You would think?</p> <p>17 A. Yes. That's the only thing I can say.</p> <p>18 Q. What about with respect to batteries, are</p> <p>19 you aware of batteries being designed defectively?</p> <p>20 A. Yes, batteries are defective. My</p> <p>21 experience with batteries is if you have a defective</p> <p>22 battery you know about it very quickly. A defective</p> <p>23 battery usually doesn't last any period of time.</p> <p>24 Once you get a battery that operates generally it's</p> <p>25 okay for whatever period that it's going to last.</p>
<p>107</p> <p>1 A. I cannot say that didn't happen.</p> <p>2 Q. We went through the electrical system here.</p> <p>3 Have you ever -- are you aware of the fact that</p> <p>4 there are times where electrical systems are</p> <p>5 designed improperly?</p> <p>6 A. Yes, that's true. However, these trucks</p> <p>7 are, you know, obviously we're sitting here for</p> <p>8 liability reasons, and truck and car manufacturers</p> <p>9 are going to do the things they have to do to make</p> <p>10 sure their electrical system is insulated and so</p> <p>11 forth so they can't be subject to those liabilities.</p> <p>12 These are not for the most part -- and I can't say</p> <p>13 if Mr. Morris has done anything or anybody else, but</p> <p>14 these are not custom systems. This is we designed</p> <p>15 this system for this truck, or a truck, or a series</p> <p>16 of trucks.</p> <p>17 Q. You're familiar though with vehicles -- I'm</p> <p>18 limited just to vehicles, that there are design</p> <p>19 defects in electrical systems in vehicles. You're</p> <p>20 aware of that, aren't you?</p> <p>21 A. There are design defects in all kind of</p> <p>22 electrical systems.</p> <p>23 Q. I've got a Chevy Trail Blazer. It's a 2004</p> <p>24 I think, and I had to go in there because my</p> <p>25 taillights went out two months after I bought it.</p>	<p>109</p> <p>1 Q. You don't know, this battery could have</p> <p>2 been put in two hours before he got on the road?</p> <p>3 A. Certainly.</p> <p>4 Q. So you're not able to rule out the</p> <p>5 possibility of a battery design defect, are you?</p> <p>6 A. I can't say anything about the battery. I</p> <p>7 have no idea about them in this case.</p> <p>8 Q. You cannot rule it out. You're not saying</p> <p>9 that that's what caused it, but you can't rule it</p> <p>10 out either?</p> <p>11 A. Certainly.</p> <p>12 Q. And you don't know what kind of battery it</p> <p>13 was? You don't know how old it was? You don't know</p> <p>14 who manufactured it or anything like that?</p> <p>15 A. No.</p> <p>16 Q. What about manufacturing defects, are you</p> <p>17 familiar that manufacturing defects are present</p> <p>18 within electrical systems in vehicles?</p> <p>19 A. Again, that's just like saying anything.</p> <p>20 Being he had a '98 and this accident occurred in</p> <p>21 2003 --</p> <p>22 DR. ROBINSON:</p> <p>23 September 12, 2004.</p> <p>24 A. That would have become obvious to someone.</p> <p>25 BY MR. BRITTAIN:</p>

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<p style="text-align: right;">110</p> <p>1 Q. When I talk about manufacturing defects -- 2 do you understand the difference between a 3 manufacturing defect and a design defect? 4 A. Yes. If there was a mistake -- go ahead. 5 Q. But you understand that the materials that 6 are used can oftentimes be different between the 7 same even make and model of vehicles; you get a bad 8 batch of something. You understand what I'm talking 9 about? 10 A. Right. 11 Q. Do you know whether that was the case here 12 with respect to anything in the electrical system? 13 A. I can't specifically say that. I know that 14 from electrical systems there's things that you have 15 to do to test them to make sure that they're going 16 to be okay. 17 Q. But the wiring eventually is going to wear 18 out and everything. Is that fair to say? 19 A. Insulation can fail. But they've got to 20 the point where this insulation lasts countless 21 years. It depends on -- there's things he could 22 have done to the truck that would have done 23 something. But, you know, from what I've seen in 24 our applications wiring is good to go for sometimes 25 20, 30 years if it's kept in a manner that it</p>	<p style="text-align: right;">112</p> <p>1 assuming were on, as they were coming towards this 2 Kenworth? 3 A. No, I cannot. The one thing I can say is I 4 know that -- and I made it a point to look at that 5 quite a bit. I don't know if there's a specific 6 rule, and this is just from me looking on the 7 highway, that there's a light situated in the middle 8 of a trailer, and I'm pretty sure that most trucks 9 have to have them. I got that when I was talking to 10 a trucker earlier in the last couple of weeks, that 11 there's a light situated in the middle of the 12 trailer that has to be on. 13 Q. Where on the trailer are you talking about? 14 A. It's situated -- it's probably somewhere in 15 the middle of the trailer. 16 Q. Are you talking about underneath the 17 trailer? 18 A. On both sides of the trailer. 19 Q. All right. 20 A. So that when I drive by the trailer, that 21 light, I can look out the side of my vehicle and see 22 it. It's a yellow light. 23 Q. Do you know whether that was on this 24 particular trailer? 25 A. From what I understand I cannot -- I was</p>
<p style="text-align: right;">111</p> <p>1 doesn't move and things like that. 2 Q. As long as it's maintained properly? 3 A. Correct. 4 Q. And as long as there's no defect in the 5 actual I guess the wiring or the insulation? 6 A. It would be the insulation. 7 Q. And you're not able to rule out the 8 possibility of improper maintenance or improper 9 insulation? 10 A. I cannot say anything about those two. If 11 those did occur that's something I can't verify or 12 not verify. 13 Q. All right. Tell me this. Do you have any 14 idea where the Kenworth tractor was pointing prior 15 to impact? 16 A. All I have on where it was going was the 17 reports I have from the Robinsons. 18 Q. Let me ask you this. So if Dr. Robinson 19 doesn't have any earthly idea where the tractor was 20 located, therefore, you would have no idea either, 21 would you? 22 A. That's right. 23 Q. And do you have -- are you offering any 24 opinion as to how far back Mr. Thompson or Mr. 25 Tidwell should have been able to see these lights,</p>	<p style="text-align: right;">113</p> <p>1 not able to locate it on here because the pictures 2 we took don't show that, but that light should have 3 been -- you just can't see it because of the way the 4 thing is, but there should have been a light 5 somewhere in the middle of the trailer. 6 DR. ROBINSON: 7 Do you think that was federally 8 mandated? 9 A. I can go look that up but, you know, when 10 you walk outside look for a tractor trailer and see 11 if one passes by. I'd have to find out that. 12 BY MR. BRITTAIN: 13 Q. But on this one you don't know whether it 14 was ever installed on the trailer? 15 A. I tried to say that. That's correct. 16 Q. Let me ask you this. You were talking 17 about the wiring systems as they relate to the 18 Kenworth in that book you had, the wiring showed 19 going through that trailer, do you know whether that 20 was the same trailer, whether it was a Kenworth 21 trailer that was on this tractor? 22 A. Say again, if that was the same -- 23 Q. Trailer that was originally on this 24 tractor? 25 A. No, I can't say that.</p>

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<p style="text-align: right;">114</p> <p>1 Q. Back to the light. You don't know whether 2 it was ever put on there to begin with, and you 3 don't know whether even if it had been removed 4 by the time this accident happened? 5 A. I can't say whether the light was on or 6 off. I think that is probably something we have to 7 find out about. That's something that Panther, too, 8 would know about. 9 Q. Did you call them to find that out? 10 A. I did not do that. 11 Q. Now, are you aware that there was some 12 damage done to the trailer, it was bent up during 13 the rollover? 14 A. No, I wasn't specifically aware of that. 15 Q. Do you know whether there was any? 16 A. No. I did see them going through the 17 median and all that. 18 Q. You're aware it drove through a median I 19 think about 150 feet or 150 yards, I can't remember, 20 before coming back up and rolling over? 21 A. I saw the reconstruction map, yes. 22 Q. Do you know whether when it went through 23 that median then whether that light could have been 24 knocked off or disabled, assuming it was even on 25 there?</p>	<p style="text-align: right;">116</p> <p>1 think your general understanding is that there are 2 no trees there. If you've got lights shining off 3 into nothing and there's nothing to reflect the 4 light back, are you going to be able to see that? 5 DR. ROBINSON: 6 Are you asking him who could see, him 7 or the driver, Mr. Thompson or his 8 passenger could see? Are you asking him to 9 give an opinion on what they saw or didn't 10 see? 11 BY MR. BRITTAIN: 12 Q. Let me ask you this. How far out do those 13 headlights usually work on a tractor trailer? 14 A. I don't know. 15 Q. You don't know if you are driving it 16 regular how far down the road you could see? 17 A. I don't -- I can't say. 18 Q. You don't know the power, however you want 19 to call it, illumination of the headlights or 20 anything like that? 21 A. I don't know that. 22 Q. You tell me whether you're familiar with 23 lights to the extent of how far away people can see 24 them, why you're able to see a light, whether it be 25 reflection or something like that. Is that</p>
<p style="text-align: right;">115</p> <p>1 A. I can't say whether it was or not. 2 Q. Back to what they could or could not see 3 then. Are you able to tell me that, you know, 300 4 feet from this overturned Kenworth they should have 5 been able to see it based on -- assuming the lights 6 were on? 7 A. No, I cannot say that. 8 Q. So even if the lights were on, you're not 9 able to say one way or the other whether or not they 10 could have even seen the lights? 11 A. I can't say that. 12 Q. It's possible that these lights were on, 13 that the headlights would be pointed out into the 14 trees, assuming there were even any trees there, and 15 they never would have been able to see them? 16 DR. ROBINSON: 17 I'm going to object because anything 18 is possible. We have to ask questions on 19 the basis of the actual facts, and I think 20 those questions are not in line with the 21 factual scenario actually presented. 22 BY MR. BRITTAIN: 23 Q. Let me ask you this. This is a 24 hypothetical. Assume that the tractor was laying 25 over on its side and the lights were still on, and I</p>	<p style="text-align: right;">117</p> <p>1 something you're qualified to give expert testimony 2 on? 3 A. Not at this time. 4 Q. You said not at his time. Have you signed 5 up for any classes to learn how to become -- 6 A. We do lighting and we have to -- there's 7 things that we have to apply, but I don't know 8 specifically anything about vehicle lighting, and 9 then it's been such a long time since I've done 10 anything with lighting that I would have to go 11 refresh myself on that situation. 12 Q. Well, tell me if you can answer this 13 question or if you can't, but if you take a 14 headlight of an 18 wheeler, and you shine it off 15 into nothing, just dark, are you going to be able to 16 see the light if you're standing behind it? 17 A. If I'm standing behind it? It depends. 18 How is the beam deflected? Does he have his low 19 beams or high beams on, those kind of things, you 20 know. 21 Q. Either one. You tell me with low beams. 22 A. He had the low beam on and I'm standing 23 behind him, certainly that's -- I'm not trying to 24 give any expert opinion on what happened here, but 25 if I'm standing behind a truck and it's shining a</p>

<p>122</p> <p>1 A. These photos, and basically these are the</p> <p>2 only ones that I actually needed.</p> <p>3 Q. You're talking about the ones in your book</p> <p>4 and the ones that we've already marked?</p> <p>5 A. They gave me a whole slew of these, but I</p> <p>6 just took and printed out the ones that are relevant</p> <p>7 to me.</p> <p>8 Q. We've marked that as whatever exhibit</p> <p>9 number that is, the five, six pictures?</p> <p>10 A. Yes.</p> <p>11 Q. And you went through that disk and pulled</p> <p>12 out all of the ones that are relevant to the issues</p> <p>13 that you're looking at?</p> <p>14 A. That's correct.</p> <p>15 Q. Do you plan on doing any kind of</p> <p>16 reconstruction film or any kind of drawings or</p> <p>17 anything like that?</p> <p>18 A. No.</p> <p>19 Q. Again, just to make sure I've asked this,</p> <p>20 even assuming the lights are on you don't know</p> <p>21 whether it would be visible to anyone driving down</p> <p>22 the road that night?</p> <p>23 A. Yes. I can't give an opinion on that</p> <p>24 either way.</p> <p>25 Q. Going through your project notes, which is</p>	<p>124</p> <p>1 Q. It says that it's assumed that light</p> <p>2 switches were in the on position. Do you know</p> <p>3 whether -- what that switch is like, whether it's a</p> <p>4 push in, pull out, flip up, flip down?</p> <p>5 A. Flip up, flip down.</p> <p>6 Q. Do you know whether that switch was hit or</p> <p>7 in any way knocked down in the rollover?</p> <p>8 A. No.</p> <p>9 Q. Is it possible that it could have been hit</p> <p>10 and flipped down in the rollover and turned out</p> <p>11 every single light on this 18 wheeler?</p> <p>12 A. There's a number of -- from what I</p> <p>13 understand there's a number of these switches, two</p> <p>14 or three or more. And I can't say that if it would</p> <p>15 hit one that it would turn off all the lights. I</p> <p>16 don't think so.</p> <p>17 Q. Do you know how many switches there are?</p> <p>18 A. It appears -- well, we can look at that. I</p> <p>19 don't know right off. We can look at the schematic</p> <p>20 and get some view of what that would be.</p> <p>21 Q. Yes, I need to do that.</p> <p>22 A. We've got -- we show some switches for the</p> <p>23 headlights, which would be one set of switches for</p> <p>24 the headlights. We show some switches for the</p> <p>25 dimmer switch. Other than that that's all they</p>
<p>123</p> <p>1 Exhibit 6, I believe, this kind of sums up your</p> <p>2 opinions. Is that right?</p> <p>3 A. Yes.</p> <p>4 Q. We've talked about your opinions. You've</p> <p>5 got four bullets down there. The batteries in this</p> <p>6 type trailer are mechanically held in place so as to</p> <p>7 prevent movement. We've gone over all of that,</p> <p>8 haven't we?</p> <p>9 A. Yes.</p> <p>10 Q. Then you say, Assuming the battery</p> <p>11 structures were maintained. We've talked about</p> <p>12 that, right?</p> <p>13 A. Yes.</p> <p>14 Q. And the wiring was still connected to the</p> <p>15 power source.</p> <p>16 A. That's right.</p> <p>17 Q. What are some ways that the wiring could</p> <p>18 become unconnected to the power source?</p> <p>19 A. They could physically be torn off.</p> <p>20 Q. So bullet No. 2, we've gone over all of</p> <p>21 that, haven't we?</p> <p>22 A. From what I understand, yes.</p> <p>23 Q. The same with three, we've gone over</p> <p>24 everything?</p> <p>25 A. Yes.</p>	<p>125</p> <p>1 show. They have some other switches. I don't think</p> <p>2 that's the lights.</p> <p>3 Q. What is a dimmer switch? Is that where</p> <p>4 when you ride down sometimes the lights will go --</p> <p>5 you see them passing sometimes, and they'll say</p> <p>6 thank you by flipping the switch and the lights will</p> <p>7 go from bright to dim?</p> <p>8 A. It shows this switch right here. It says a</p> <p>9 number of things below it. It says dimmer switch</p> <p>10 standard position, push button in turn signal</p> <p>11 switch, optional position, mounted in floor. So</p> <p>12 that would be something -- that might be to select</p> <p>13 the high beam, low beam.</p> <p>14 Q. So from what you see there though there's</p> <p>15 one switch that would control all the lights and</p> <p>16 then a dimmer switch?</p> <p>17 A. No. They're only showing one switch for</p> <p>18 the headlights. They're not showing where the other</p> <p>19 switches are for the other lights. The way -- from</p> <p>20 what I understand, the way it works is there's a</p> <p>21 number of basically you have power, and these lights</p> <p>22 go out. There's a switch that goes out to a relay.</p> <p>23 Basically this device enables this device which</p> <p>24 turns on the lights from what I understand. That's</p> <p>25 kind of illustrated by this.</p>

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<p>126</p> <p>1 They'll have a flood lamp relay, a sign</p> <p>2 lamp relay, a tail and park relay, dimmer relay, a</p> <p>3 number of relays here that goes -- from what I</p> <p>4 understand these are wired out to an instrument</p> <p>5 panel harness that's going to go over to these</p> <p>6 switches. So it's kind of tough for me to know how</p> <p>7 many switches he has or what the switches were for</p> <p>8 because he's got a whole rack of switches right</p> <p>9 here. There appear to be four to eight that could</p> <p>10 have been used.</p> <p>11 There was a conversation we had somewhere</p> <p>12 along the line that these things could be changed.</p> <p>13 They could be wired a different way, all that kind</p> <p>14 of stuff. So I can't accurately -- I cannot show</p> <p>15 the switches on these schematics, but these right</p> <p>16 here where they -- they're shown in this picture</p> <p>17 right in here. I would tend to think they would be</p> <p>18 the ones on the top, which they have four switches,</p> <p>19 and then there's I think four switches on the</p> <p>20 bottom. What they're applied for, I don't know.</p> <p>21 Q. You don't know whether those four switches,</p> <p>22 whether those have anything to do with actually</p> <p>23 turning on and off lights?</p> <p>24 A. That's right.</p> <p>25 Q. And, again, you don't know whether anything</p>	<p>128</p> <p>1 DR. ROBINSON:</p> <p>2 The expert, not the attorney.</p> <p>3 MR. BRITTAIN:</p> <p>4 Right.</p> <p>5 BY MR. BRITTAIN:</p> <p>6 Q. I'll let you read -- I'm going to draw a</p> <p>7 line here. What I'm doing is I'm circling pages</p> <p>8 178, line 20 through 179, line 6. If you'll look at</p> <p>9 that.</p> <p>10 A. (Examining document.) Okay.</p> <p>11 Q. All right. Is the fact that -- would you</p> <p>12 agree with me in that testimony right there Dr.</p> <p>13 Robinson is saying he can't tell whether they were</p> <p>14 on after rollover or not?</p> <p>15 A. Yes.</p> <p>16 DR. ROBINSON:</p> <p>17 Are you asking him what now?</p> <p>18 BY MR. BRITTAIN:</p> <p>19 Q. According to that testimony right there Dr.</p> <p>20 Robinson is saying he doesn't know whether the</p> <p>21 lights were on after the rollover or not. Is that a</p> <p>22 fair summary of that testimony?</p> <p>23 DR. ROBINSON:</p> <p>24 Well, I think his testimony is what it</p> <p>25 is.</p>
<p>127</p> <p>1 could have been changed from the time of this</p> <p>2 accident through the time of the manufacture</p> <p>3 according to that schematic?</p> <p>4 A. Correct.</p> <p>5 Q. Let me ask you this. Both Mr. Thompson and</p> <p>6 Mr. Tidwell testified in their deposition that they</p> <p>7 were driving down the road going 70 miles an hour,</p> <p>8 and they were looking straight ahead paying</p> <p>9 attention where they were going, and they never saw</p> <p>10 any lights on this tractor trailer. If that's their</p> <p>11 testimony, would you disagree with that testimony?</p> <p>12 A. I can't -- I wouldn't be able to comment on</p> <p>13 their testimony.</p> <p>14 Q. All right. Well, are you so sure of your</p> <p>15 opinions that you feel like that they should have</p> <p>16 seen some lights?</p> <p>17 A. I think they should have seen something,</p> <p>18 yes.</p> <p>19 Q. You don't know at what point that should</p> <p>20 have been though?</p> <p>21 A. I can't say that.</p> <p>22 Q. It could have just been 50 feet ahead of</p> <p>23 it?</p> <p>24 A. I can't say that.</p> <p>25 Q. Let me -- Dr. Robinson --</p>	<p>129</p> <p>1 A. He just says, no, I can't. From reading</p> <p>2 here he says, no, I can't; no, I can't.</p> <p>3 Q. Does that have any affect on your opinion?</p> <p>4 A. No.</p> <p>5 Q. Let me ask you about this fax we've marked</p> <p>6 as Exhibit 5. There were portions of this that you</p> <p>7 marked out I assume because you were not able to</p> <p>8 give an opinion, you couldn't provide that opinion.</p> <p>9 Is that fair to say?</p> <p>10 A. That's right.</p> <p>11 Q. One of the things you marked out is that</p> <p>12 there wasn't wasn't any skid mark data. You don't</p> <p>13 know whether there were skid marks or not, do you?</p> <p>14 A. I mean I'm an electrical engineer. I don't</p> <p>15 know anything about skid marks.</p> <p>16 Q. That's not your deal?</p> <p>17 A. Yes.</p> <p>18 Q. The Morris tractor trailer was duly</p> <p>19 equipped with all lighting and reflector assemblies</p> <p>20 mandated by the US DOT. You aren't able to say</p> <p>21 that, are you?</p> <p>22 A. No, I can't say anything.</p> <p>23 Q. We don't know whether this thing was</p> <p>24 properly equipped with the proper lights or not, do</p> <p>25 we? Or can you say that?</p>

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<p style="text-align: right;">130</p> <p>1 A. I can't say anything about the truck, you 2 know. All I can give you is my opinions like I've 3 given you. 4 Q. And so you can't give an opinion or you 5 can't state as a fact that it was properly equipped 6 with the proper lighting? 7 A. I cannot do that. That's right. 8 Q. Another thing crossed out here, There was 9 no evidence that the Morris tractor trailer suffered 10 any electrical malfunctions prior to the collision 11 with the Thompson vehicle. You're unable to provide 12 that opinion. Is that correct? 13 A. That's correct. 14 Q. Right here under No. 8, is that your 15 handwriting? 16 A. Yes. 17 Q. Read that into the record if you will, 18 please. 19 A. The police report says nothing about 20 lights. It is only stated in Robinson's report as 21 an assumption. 22 Q. What are you referring to there? 23 A. I think they made some comments about the 24 lights being on, and I was just saying I can't say 25 that. As an aside, I did note in the police report</p>	<p style="text-align: right;">132</p> <p>1 be more qualified to offer that opinion than you 2 would? 3 DR. ROBINSON: 4 He's not an electrical engineer, is 5 he? 6 MR. BRITTAIN: 7 That's not my question. 8 A. From his experience -- 9 DR. ROBINSON: 10 I'm going to object on the grounds 11 this witness as an expert in electrical 12 engineering doesn't have to defer to 13 somebody who is not even in his specialty. 14 Did you say he's a sergeant? 15 MR. BRITTAIN: 16 Sergeant. 17 DR. ROBINSON: 18 A sergeant with the Alabama State 19 Police, with all due deference, he's not an 20 electrical engineer and he hasn't had the 21 training that this witness has had. So he 22 has no obligation to defer to him in any 23 shape or fashion. Subject to the objection 24 you can answer. Plus, he wasn't even 25 there. This witness that you're referring</p>
<p style="text-align: right;">131</p> <p>1 that when they talked to the guys they were only 2 able to say that they were advised that the lights 3 were not on from those guys, from the drivers of the 4 other truck. 5 Q. Would it change -- let me tell you, 6 Sergeant Patterson, the fellow whose deposition 7 we've taken, I'm going to represent to you without 8 going through every bit of his deposition that he is 9 the head of traffic homicide out of the Montgomery 10 office for the State of Alabama. He is as high as 11 it gets on that. He has investigated hundreds of 12 traffic homicides. That's what he does. That's 13 what he has done for about fifteen years, almost 14 fifteen years now. 15 In his opinion, he thinks it's more likely 16 than not the lights were knocked off as a result of 17 the rollover and that he has seen many rollovers. 18 That's based on his investigation of many rollovers. 19 Knowing that, would that have any affect on your 20 opinion? 21 A. I'd have to know the sergeant. 22 Q. What now? 23 A. I'd have to know the fellow. 24 Q. Well, would you agree with me, based on the 25 representations I've just made to you, that he would</p>	<p style="text-align: right;">133</p> <p>1 to, this sergeant, wasn't there at the time 2 of the accident. Subject to that you may 3 answer. 4 BY MR. BRITTAIN: 5 Q. Do you want me to repeat the question? 6 A. I can't answer that. 7 Q. You weren't there at the accident either, 8 were you? 9 A. That's correct. 10 Q. You have investigated. You've done these 11 tests and looked at some brochures, and you've come 12 to your conclusion based on that, right? 13 A. That's right. 14 Q. Why can't you tell me whether you would 15 defer to Sergeant Patterson who has investigated 16 numerous rollovers, hundreds of homicides? Do you 17 feel that you're more qualified than he is? 18 A. I can't say that. 19 Q. For the record, No. 9 here is a letter to 20 you from Attorney Robinson asking you to looks like 21 put something on a CD? 22 A. Yes. I did not have anything except -- I 23 think I did have a CD. 24 DR. ROBINSON: 25 Did you say you did or did not?</p>

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<p>158</p> <p>1 already asked how much you charge an hour so we just 2 need to quantify. 3 A. I think it's -- just from the time we spent 4 I think eight hours is reasonable. 5 Q. And then for the time today if we started 6 -- what time did we start, Madame Reporter? 7 COURT REPORTER: 8 10:38. 9 BY DR. ROBINSON: 10 Q. At 10:38 and the deposition was scheduled 11 at 10:30. We started about eight minutes later. 12 And here it is now almost seven minutes before two. 13 What would that be, 10:30, 11:30, 12:30, 1:30, about 14 three and a half hours -- three hours and fifteen 15 minutes. You haven't received a check yet from Mr. 16 Brittain yet, have you? 17 A. No. 18 Q. So the total hours, the eight hours plus 19 the three of the deposition, or did you mean the 20 three to be part of the deposition, the preparation 21 hours and the deposition? 22 A. That's included. 23 Q. Just eight hours? 24 A. Yes. 25 DR. ROBINSON:</p>	<p>160</p> <p>1 Q. And then one thing I think when you all 2 were reading that affidavit a little while ago, if I 3 understood your earlier testimony, you don't know 4 whether the lights, even if they were on, would have 5 been visible to Thompson and Tidwell. Is that 6 right? 7 A. That is true. 8 Q. And you don't know whether the tractor was 9 attached to the trailer at the time of impact with 10 the Peterbilt, do you? 11 A. I don't know that. 12 MR. BRITTAIN: 13 Thank you. That's all I've got. 14 (DEPOSITION CONCLUDED AT 1:49 P.M.) 15 16 17 18 19 20 21 22 23 24 25</p>
<p>159</p> <p>1 That's considerate of you. I'm sure 2 Attorney Brittain appreciates it, too. It 3 shows that you're a fair person, and we 4 appreciate it. But, again, I thank you so 5 very much, and these documents that you 6 have reviewed and everything, we thank you 7 for making them available to Attorney 8 Brittain so we could accommodate him. I 9 have no questions unless Attorney Brittain 10 has some. 11 (Off-the-record discussion.) 12 MR. BRITTAIN: 13 There were two Exhibit 11s. 14 DR. ROBINSON: 15 That would be most confusing. Thank 16 you for catching that. 17 MR. BRITTAIN: 18 I'm going to mark the March 28 fax 19 11A, and I'll make these pictures that you 20 drew for me 11B. 21 DR. ROBINSON: 22 11B and 11? 23 MR. BRITTAIN: 24 11A and 11B. 25 EXAMINATION BY MR. BRITTAIN:</p>	<p>161</p> <p>STATE OF LOUISIANA: PARISH OF EAST BATON ROUGE: This certification is valid only for a transcript accompanied by my original signature and original blue stamp on this page. I, Kelly G. Young, Certified Court Reporter in and for the State of Louisiana, as the officer before whom this testimony was taken, do hereby certify that the witness to whom oath was administered, after having been duly sworn by me upon authority of R.S. 37:2554, did testify as hereinbefore set forth in the foregoing pages; that this testimony was reported by me in the stenotype reporting method, was prepared and transcribed by me or under my personal direction and supervision, and is a true and correct transcript to the best of my ability and understanding; that I am not related to counsel or to the parties herein, nor am I otherwise interested in the outcome of this matter. Baton Rouge, Louisiana, on this date, _____, 2006. _____ KELLY G. YOUNG, RPR, CCR Certificate No. 91025 State of Louisiana</p>